

Readopt with amendment Env-Wq 1708.10, eff. 5-21-08 (doc. #9162), to read as follows:

Env-Wq 1708.10 Demonstration of Alternatives Analysis; Economic or Social Development Importance.

(a) ***For purposes of this section, the following definitions shall apply:***

- (1) ***“Activity” means any of activities listed in Env-Wq 1708.02 as being subject to this part;***
- (2) ***“Area in which the water body is located” means the directly affected municipality(ies) and, if necessary to fully quantify the social and economic benefits of the proposed activity, one or more of the municipalities that abut the directly affected municipality(ies), as determined by the applicant in consultation with the department; and***
- (3) ***“Directly affected municipality(ies)” means the municipality or municipalities in which the water body that will be impacted by the proposed activity is located.***

~~(ab) Unless the department determines from documentation provided by the applicant, or other available information, that a ***For any*** proposed new or increased discharge or other ***modified*** activity would ***that is not determined to*** result in an insignificant impact to the existing water quality of a high quality waterbody ***pursuant to Env-Wq 1708.09***, the department shall require that the applicant ***shall*** provide documentation, in accordance with the procedures delineated in “Interim Economic Guidance for Water Quality Standards” EPA 823-B-95-002, dated March 1995, ***(c) through (f), below, to demonstrate*** that the:~~

- ~~(21) Lowering of ***the*** water quality is necessary to accommodate the development;~~
- ~~(+2) ***The p***Proposed project or activity will provide an important economic or social development in the area ***where in which*** the water body is located; and~~
- ~~(3) ***The social and economic benefits of the proposed project or activity outweigh the environmental harm that could be caused by the lower water quality.***~~

~~(b) Where the department finds, based on the information provided in Env-Wq 1708.10(a) that a proposed project would provide an important economic or social development, it shall require that an alternatives analysis be developed, in accordance with Env-Wq 1708.10(c), to determine if it is possible to realize those benefits either without lowering water quality or with a reduced degree of degradation.~~

~~(c) To determine if the lowering of water quality is necessary to accommodate an important economic or social benefit, the department shall require ***whether the criteria specified in (a)(1)-(3), above, have been met***, the applicant to ***shall complete an alternatives analysis as described in (d), below, and evaluate the following alternatives and submit the analysis and a request for approval of the preferred alternative to the department together with*** technically and scientifically valid ***supporting*** information. ~~describing~~~~

~~(d) ***The alternatives analysis required by (c), above, shall describe the social and economic benefits impacts, as described in (e), below, and the water quality impacts, as described in (f), below, of each the proposed activity and all practicable alternatives, on water quality and the degree to which the economic or social benefits could be realized if the alternatives were implemented including but not limited to the following:***~~

- (1) Alternative methods of production or operation;
- (2) Improved process controls;
- (3) Water conservation practices;
- (4) Wastewater minimization technologies;
- (5) Non-discharging alternatives;
- (6) Improved wastewater treatment facility operation;

(7) Alternative methods of treatment, including advanced treatment beyond applicable technology requirements of the Clean Water Act; ~~and~~

(8) Alternative sites, and associated water quality impacts at those sites; ***and***

(9) ***For activities that involve alteration of terrain, alternative site design, including but not limited to creating less impermeable area and infiltrating stormwater.***

(d) To determine if the project or activity will provide an important social and economic development in the area in which the water body is located, the applicant shall submit information on, and the department shall evaluate, the following factors:

(1) The effect on public and social services;

(2) The effect on public health and safety;

(3) The effect on quality of life;

(4) The effect on employment;

(5) The effect on tourism;

(6) Consistency with municipal and regional master plans and economic development strategies; and

(7) Other social or economic factors that are specific to the area in which the water body is located.

(e) To determine the environmental impacts of lower water quality, the applicant shall submit information on, and the department shall evaluate, the following factors:

(1) The sensitivity of existing and designated uses to the proposed discharge;

(2) The nature of the pollutants and their estimated fate in the water body;

(3) The estimated degree of change in water quality due to the proposed activity;

(4) The presence of high value resources that would be affected;

(5) The flow characteristics of the discharge;

(6) The reliability of proposed treatment technology, if any, and the risk management plan for non-standard situations such as accidents or upsets; and

(7) Other factors that are specific to the affected water body.

(f) After reviewing the information submitted pursuant to (b) through (e), above, the department shall make a preliminary determination, based on the information provided in Env-Wq 1708.10(a) and (e), to:

(1) Approve the request, if it determines that the criteria specified in (a)(1)-(3), above, appear to have been met; or

(2) Deny the applicant's request, if it determines that the criteria specified in (a)(1)-(3), above, have not been met.

(g) If the department's preliminary determination is to approve the applicant's request, the department shall provide the opportunity for public comment on its preliminary decision in accordance with Env-Wq 1708.11.

Readopt with amendment Env-Wq 1708.12, eff. 5-21-08 (doc. #9162), to read as follows:

Env-Wq 1708.12 Transfer of Water to Public Water Supplies.

(a) The transfer of waters from rivers, streams, lakes, or ponds to waters used as a public water supply ~~one water body to another~~ shall ***not*** be subject to the following ~~allowed unless all of the following~~ conditions ***are met***:

~~(a) Both the source water in the area of the withdrawal and the receiving water shall be acceptable for water supply uses after treatment;~~

~~(b) The chemical, and physical water quality parameters of the source water shall be at least equal to the water quality of the receiving water;~~

~~(e1) The biological characteristics of the source ***transferred*** water shall be compatible with those of the receiving water and shall ***does*** not contain ***exotic aquatic species or other*** species of aquatic life that would adversely affect the species of aquatic life ***could result in a violation of Env-Wq 1703.19, relative to the integrity of the biological and aquatic community,*** in the receiving water; ~~and~~~~

(2) Existing and designated uses will be maintained and supported in the source water and in the receiving water;

~~(d3) The ***withdrawal from the source water and*** transfer ~~and withdrawal to the receiving water~~ ***either will not result in any degradation of water quality or*** shall comply with the ~~antidegradation provisions of this part~~ ***have both been reviewed under the process specified in Env-Wq 1708.10 and determined by the department to meet the criteria specified for approval in Env-Wq 1708.10(a)(1)-(3); and***~~

(4) A water conservation plan that meets the water conservation requirements set forth in Env-Wq 2101 has been approved by the department and is being complied with.

(b) Transferred water may be treated to comply with the requirements of this section.

(c) If all of the conditions specified in (a), above, are met, the transfer of water shall not constitute:

(1) A discharge under RSA 485-A:8, I; or

(2) A discharge under RSA 485-A:13, I(a).

APPENDIX

Rule Section(s)	State Statute(s) Implemented	Federal Statute Implemented
Env-Wq 1708.10; Env-Wq 1708.12	RSA 485-A:6, I; RSA 485-A:8, VI	33 U.S.C. 1251 <i>et seq.</i>